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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,704	06/07/2001	James S. Mrozinski	55870US002	9401
32692	7590	02/22/2006	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			TRAN, SUSAN T	
			ART UNIT	PAPER NUMBER

1615

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/876,704	<b>Applicant(s)</b> MROZINSKI ET AL.	
	<b>Examiner</b> Susan T. Tran	<b>Art Unit</b> 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,4-10,12-15,18-33 and 35-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-10,12-15,18-33 and 35-72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

In view of the appeal brief filed on 11/29/05, PROSECUTION IS HEREBY REOPENED. New ground(s) of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) File a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) Initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 is rejected in the use of the phrase "wherein the porous film voids have an average size is in the range". The phrase is confusing. Further clarification is suggested.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 4-7, 13-15, 18-20, 23-25, 29, 30 and 39-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Matsuo et al. US 6,492,307.

Matsuo discloses a personal cleansing sheet comprising an aqueous cleansing liquid retention layer 2 laminated on one side of an oily substance absorption layer 1 (see Figs. 1-2; and column 2, lines 29-39). Oily substance absorption layer is made of thermoplastic resins including polyolefin and polypropylene resins (column 3, lines 4-

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10). Matsuo further discloses the oil substance absorption layer has a porosity (void volume) of about 5 to about 50%, and thickness of about 20 to about 300  $\mu\text{m}$  (column 3, lines 40-46; and column 4, lines 62-64). Oily substance absorption layer can further comprise non-particulate additives such as silicone oils, liquid paraffin or polyethylene wax in an amount of at least about 5% (column 3, lines 15-20 and 56-60). The aqueous cleansing liquid of the cleansing liquid retention layer can be any known lotion, cleansing liquid, emulsion, or the like (additive that benefit the skin or hair) (column 6, lines 33-38). The cleansing liquid retention layer further comprises insoluble particulate powders having average particle size of about 1 to about 30  $\mu\text{m}$  (column 6, lines 39-61).

Regarding the limitations of interstitial volume, degree of transparency, and average pore size of the oil absorption layer, it is the position of the examiner that the oil absorption layer taught by Matsuo would have the same interstitial volume, transparency, as well as the pore size, because Matsuo teaches the use of the same thermoplastic polymer, manufactured from fiber having the same basis weight and the same fiber diameter, *e.g.*, polyolefin and polypropylene resins using fiber having basis weight of about 20 to about 55  $\text{g/m}^2$ , and fiber diameter of about 0.1 to about 10  $\mu\text{m}$  (column 4, lines 39-56). Products of identical chemical composition cannot have mutually exclusive properties. A chemical composition and its properties are inseparable. Therefore, where the prior art teaches the identical chemical structure, the properties applicant discloses and/or claims are necessarily present. *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1,148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 4-7, 13-15, 18-20, 23-25, 29, 30 and 39-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuo et al. US 6,492,307, in view of Hansen et al. US 6,533,119.

Matsuo is relied upon for the reason stated above. Regarding to the properties of the oil absorbing layer, it would have been obvious to one of the skill in the art that the oil absorbing layer taught by Matsuo would have the claimed properties, because Matsuo teaches the use of the same thermoplastic polymer. However, to be more specific, Hansen teaches oil absorbing wipes made of porous sheet thermoplastic polymer such as polyolefin and polypropylene having fiber average diameter of less than 10  $\mu\text{m}$ , void volume of from 40 to 80%, average pore size of 3-15  $\mu\text{m}$ , and oil absorption capacity of from 0.7 to 6  $\text{mg}/\text{cm}^2$  (column 4, lines 25-62). Hansen further

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teaches the wipes having transparency of about 65% or less, having Hand of 8g or less, and having the ability to change from opaque to translucent after absorbing oil (column 5, lines 1-27).

Claims 26-28, 31-33, 35-38, 45-53 and 55-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuo et al. US 6,492,307, in view of Kondo et al. WO 99/29220.

Matsuo is relied upon for the reason stated above. Matsuo does not expressly teach the claimed method.

Kondo teaches a process for applying a coating composition to an oil absorbing sheet comprising applying to a surface to the oil absorbing sheet a coating solution containing fine particles of liquid-absorbing substance, solvent, and surfactant; and drying the coating to remove the solvent therefrom (page 9, lines 13-30). Therefore, one of ordinary skill in the art would have been motivated to use the process of Kondo to prepare the cleansing sheet of Matsuo, because Matsuo teaches coating the oily absorption sheet with a film, and because Kondo teaches the oily absorption sheet can be coated by applying a coating solution to the surface of the sheet to obtain an oil cleaning sheet that has excellent oil absorption and resistant to damage during use.

Claims 1, 4-9, 12-15, 18-33, 35-53 and 55-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. WO 99/29220, in view of Sugiyama et al. US 4,643,939.

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Kondo teaches a process for applying a coating composition to an oil absorbing sheet comprising applying to a surface to the oil absorbing sheet a coating solution containing fine particles of liquid-absorbing substance, solvent, and surfactant; and drying the coating to remove the solvent therefrom (page 9, lines 13-30). Surfactant includes polyvinyl alcohol (page 10, lines 28-30). Oil absorbing sheet comprises porous plastic film sheet, *e.g.*, polypropylene, polyethylene; and about 20-60% fillers, *e.g.*, mineral oils (page 6, lines 20-30). The porous film sheet has interstitial volume in the range of 0.0001-0.005 cm<sup>3</sup>, void content in the range of 5-50%, the thickness in the range of 5-200µm, and oil absorption per unit of up to 3.78 mg/cm<sup>2</sup> (pages 5, 8, and 14-22). Kondo does not specifically teach the transparency of the porous plastic film sheet being of less than 65 percent. However, Kondo teaches excellent transparency, notable transparency enabling easy confirmation of oil absorption (page 8, lines 29-31; and examples). Accordingly, it is the position of the examiner that the oil absorption layer taught by Kondo would have the claimed transparency, because Kondo teaches the use of the same thermoplastic polymer for the same purpose. Products of identical chemical composition cannot have mutually exclusive properties. A chemical composition and its properties are inseparable. Therefore, where the prior art teaches the identical chemical structure, the properties applicant discloses and/or claims are necessarily present. *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990).

It is noted that Kondo does not teach the use of additive in the coating solution.



Sugiyama teaches a coating solution comprising solvent, bactericide such as salicylic acid; and water-soluble sizing agent, such as polyvinyl alcohol for oil absorbing cosmetic wipes (abstract; and column 2, lines 30-68). Thus, it would have been obvious to one of ordinary skill in the art to modify the coating solution of Kondo to include the bactericide in view of the teaching of Sugiyama to obtain the claimed invention, because Sugiyama teaches oil absorbing wipes containing bactericide exhibits better cosmetic effect than the conventional oil absorbing wipes (column 4, lines 17-23), because Sugiyama teaches bactericide contained in the oil absorbing wipes suppressed proliferation of bacteria therefore, reduce adverse effects of bacteria on the skin, and because Kondo teaches the use of a wide variety of additives may be added to the coating solution (page 10, lines 10-11).

It is further noted that Kondo does not teach the viscosity of the coating solution. However, it would have been obvious to one of ordinary skill in the art to, by routine experimentation determine a suitable viscosity of the coating solution, because Kondo teaches a coating solution that provides a hydrophilic property in the film surface along with a safety to the skin, and good capability of liquid absorption.

Claims 10 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al. WO 99/29220, in view of Sugiyama et al. US 4,643,939 and Park et al. US 5,939,093.

Kondo and Sugiyama are relied upon for the reason stated above. The references do not explicitly teach the use of polyvinyl pyrrolidone.

Park teaches a cosmetic pack in the form of sheet comprising polyvinyl pyrrolidone (abstract; and column 3, lines 30-42). Thus, it would have been obvious to one of ordinary skill in the art to modify the coating solution of Kondo to use polyvinyl pyrrolidone in view of the teaching of Park, because Kondo teaches the use of polyvinyl alcohol, and because Park teaches the equivalency of polyvinyl alcohol and polyvinyl pyrrolidone as a water-soluble polymer useful to enhance the strength of the film and to maintain clean and healthy skin (id).

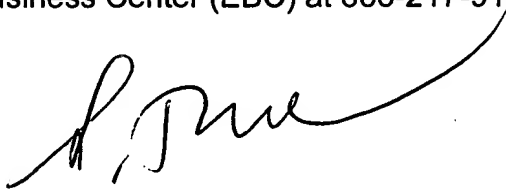
### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan T. Tran whose telephone number is (571) 272-0606. The examiner can normally be reached on Monday through Thursday 6:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

  
CHRISTOPHER S. F. LOW  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

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A handwritten signature in black ink, appearing to read 'S. Tran', with a long, sweeping horizontal stroke extending to the right.

S. Tran  
Patent Examiner  
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